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SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDWARD SHIA,

Defendant.

CASE NO. CR 15-00257 VC

STIPULATIONS REGARDING BENCH TRIAL

Bench Trial Date: December 6, 2016

Time: 10:30 a.m.

Court: Hon. Vince Chhabria

1 **I. INTRODUCTION**

2 The parties hereby submit the following stipulations for trial by the Court, pursuant to Federal
3 Rule of Criminal Procedure 23. This trial concerns the unlawful possession of child pornography.

4 On May 7, 2015, the Grand Jury returned an Indictment (ECF No. 7) charging the Defendant
5 with one count of possession of child pornography, in violation of Title 18, United States Code, Section
6 2252(a)(4)(B). On September 13, 2016, the Defendant filed a Motion to Suppress all evidence obtained
7 in the search of his residence, including the seizures and subsequent searches of his electronic devices
8 (ECF No. 77.) The Court denied the Defendant's Motion to Suppress on November 8, 2016 (ECF No.
9 82).

10 The parties now agree to a bench trial with stipulations as detailed below. The parties enter these
11 stipulations with the express understanding that the Defendant is not rendering moot his right to appeal
12 the denial of his Motion to Suppress. *See United States v. Larson*, 302 F.3d 1016, 1020 (9th Cir. 2002)
13 (stating that appeal after a stipulated facts bench trial is not moot if the stipulations merely describe
14 evidence the government intended to introduce at trial).

15 **II. ELEMENTS OF THE OFFENSES**

16 The elements of the charged offense are as follows:

17 1. The Defendant knowingly possessed matters that the Defendant knew contained visual
18 depictions of minors engaged in sexually explicit conduct;

19 2. The Defendant knew that each of the visual depictions contained in the matters was of a
20 minor engaged in sexually explicit conduct;

21 3. The Defendant knew that production of such visual depictions involved the use of a
22 minor in sexually explicit conduct; and

23 4. Each of the visual depictions had been either transported in interstate or foreign
24 commerce, or produced using material that had been transported in interstate or foreign commerce, or
25 produced using material that had been transported in interstate or foreign commerce by computer or
26 other means.

27 **III. STIPULATIONS FOR TRIAL**

1 The parties stipulate and agree to the following, and further stipulate and agree that the
 2 government exhibits referenced herein are authentic and admissible under the Federal Rules of
 3 Evidence, subject to Defendant's objections regarding the admissibility of evidence that was subject to
 4 the Defendant's Motion to Suppress (including the fruits of evidence that the Defendant contends was
 5 seized and/or searched in violation of his Fourth Amendment rights).

6 1. Defendant, Edward Shia, waives his right to a jury trial, and the United States consents to
 7 have the Court conduct the trial in this case.

8 2. The following electronic devices seized during the April 9, 2015, search of 343 Victoria
 9 Street, San Francisco, California, are deemed admitted into evidence for the purpose of this trial:

- 10 a. Antec 900 desktop computer, including the 1 Terabyte Western Digital hard drive
 11 (Model #WD10EZRX-00A8LB0; Serial Number: WCC1U1412434) located inside
 12 the Antec computer tower;
- 13 b. 1 Terabyte Western Digital external hard drive (Model #WD10000H1U-00; Serial
 14 Number: WCASJ0837365) found connected to the Antec computer; and
- 15 c. 32 Gigabyte HP USB drive.

16 3. The audiotape of Defendant's post-*Miranda* interview at the scene of the search warrant
 17 execution at 343 Victoria Street, San Francisco, California, and the videotape of the Defendant's post-
 18 *Miranda* interview in the Special Victims Unit interview room, both of which were recorded on April 9,
 19 2015, are deemed admitted into evidence for the purpose of the trial as well.

20 4. **San Francisco Police Department Officer Popov #985:** If called to testify at trial,
 21 Officer Popov would testify as follows: On April 9, 2015, Officer Popov and a team of San Francisco
 22 Police Department officers executed a search warrant at 343 Victoria Street. Officer Popov is a forensic
 23 examiner from the Silicon Valley Regional Computer Forensics Laboratory (RCFL). In the Defendant's
 24 bedroom, Officer Popov saw an Antec 900 desktop computer, which contained a 1 Terabyte Western
 25 Digital hard drive (Model #WD10EZRX-00A8LB0; Serial Number: WCC1U1412434) inside the
 26 computer tower; a 1 Terabyte Western Digital external hard drive (Model #WD10000H1U-00; Serial
 27 Number: WCASJ0837365) that was connected to the Antec computer; and a 32 Gigabyte HP USB drive
 28 (collectively, the "Electronic Media"). Officer Popov performed an on-scene preliminary forensic

examination and observed approximately eighty-seven (87) child pornography files on the Western Digital external hard drive. Additionally, Shareaza P2P software and indicia for SHIA were found on both the external hard drive and the desktop computer. Officer Popov seized the Electronic Media, which was booked into evidence.

5. **San Francisco Police Department Sergeant Christopher Servat #285:** If called to testify at trial, Sergeant Servat would testify as follows: On April 9, 2015, following the search warrant execution, Sergeant Servat reviewed a forensic image of the 87 videos identified by Officer Popov and found that they were all depicting prepubescent minors engaged in sexual acts. The following details five of the videos that Sergeant Servat reviewed on the Western Digital external hard drive:

a) File name: [pthc] 7yo Gina #2 (BJ, Cumshot, Pussy Show) ~ hussyfan lolifuck opva 2014 preteen 8y 9y children porn

File path: C:\New folder (3)\[pthc] 7yo Gina #2 (BJ, Cumshot, Pussy Show) ~ hussyfan lolifuck opva 2014 preteen 8y 9y children porn.avi

Description: This video depicts a minor female approximately five (5) to seven (7) years old. The minor female is clothed and on her knees in front of an adult male, masturbating his erect penis. The child then performs oral copulation on the adult male's erect penis. The child then removes her lower clothing exposing her vagina. The adult male then ejaculates onto the child's vagina.

(b) File name: (~pthc center~)(opva)(2014) Perfect sucker 2011 Little brown hair 5yo

File path: C:\New folder (3)\(~pthc center~)(opva)(2014) Perfect sucker 2011 Little brown hair 5yo.mpg

Description: This video depicts an approximately three (3) to five (5) year old prepubescent female. The child removes her clothes for the camera exposing her undeveloped body. She then performs oral copulation on an erect adult male penis.

(c) File name: !Must get fucking 8yo new 2013 PTHC_HQ_ vol16 CUT

File path: C:\New folder (3)\!Must get fucking 8yo new 2013 PTHC_HQ_ vol16 CUT.avi

Description: This video depicts an approximately five (5) to seven (7) year old prepubescent female. The child is naked exposing her undeveloped body. She begins to perform oral copulation on an adult male's erect penis. The adult male then lays the child on her back on a bed and vaginally penetrates the child.

(d) File name: (Kinderkutje) Pthc Pedoland Frifam 2010 Goldberg Trailer-14 - 9Yo Sucking, Trying Vaginal & Anal Fuck, Final Cum Up Ass (24m25S) (Copy)

File path: C:\New folder (3)\(Kinderkutje) Pthc Pedoland Frifam 2010 Goldberg Trailer-14 - 9Yo Sucking, Trying Vaginal & Anal Fuck, Final Cum Up Ass (24m25S) (Copy).avi

Description: This video depicts an approximately five (5) to seven (7) year old prepubescent female. The child begins to undress exposing her vagina, and then begins to rub her vagina with a white vibrator/sex toy. The video then shows her on her knees on a bed, completely nude, performing oral copulation on an adult male's erect penis. She is then shown straddling the adult male as vaginally penetrates the child. The adult male then bends the child over on her stomach and anally penetrates the child. The adult male then ejaculates onto the child's buttocks.

(e) File name: (Pthc) Kitty 4Yo 3 - Tastemorecum - Toddler Girl+Man - Babyj-3Yo Agustina Eating Cum 1.Cbaby - Tastemorecum More 3Yo Blowing Dad.opva_233

File path: C:\New folder (3)\(Pthc) Kitty 4Yo 3 - Tastemorecum - Toddler Girl+Man - Babyj-3Yo Agustina Eating Cum 1.Cbaby - Tastemorecum More 3Yo Blowing Dad.opva_233.mpg

Description: This video depicts an approximately two (2) to four (4) year old prepubescent female. The child performs oral copulation on an erect male penis, and at the end of the video the adult male ejaculates into the child's mouth.

6. **Homeland Security Investigations Special Agent Jason Popper**: If called to testify at trial, Agent Popper would testify as follows: Agent Popper has received specialized training and has gained practical experience in the forensic examination of computers and other electronic media to recover evidence, including child pornography. After the on-scene forensic examination, the Electronic Media were transferred from SFPD to HSI custody to permit a more extensive forensic examination. Pursuant to a federal search warrant, Agent Popper created forensic images of the Electronic Media at the Homeland Security Investigations computer laboratory. Agent Popper provided those forensic images to Special Agent Dana Unger for review.

7. **Homeland Security Investigations Special Agent Dana Unger**: If called to testify at trial, Agent Unger would testify as follows.

a) Agent Unger reviewed the Antec 900 desktop computer and associated internal hard drive. She found 761 image files that depicted children engaging in or performing sex acts with adults. She also found images of Edward Shia on the same computer.

b) Agent Unger also reviewed the external hard drive, and found 101 video files containing child pornography, several of which contained the acronym "PTHC," which is a term commonly used by collectors of child pornography to denote "Pre Teen Hard Core."

1 c) In addition, Agent Unger reviewed the 32GB HP USB drive, and found 11,780
2 image files and 38 video files containing child pornography. Many of the videos had numbers
3 indicating the age of the child depicted (*i.e.*, 9yo, 8yo, 11yo, and 7yo), and several had the
4 acronym "PTHC." Agent Unger's review of the deleted files further revealed 81 video files with
5 titles indicative of child pornography. Agent Unger also found an image of Edward Shia on the
6 drive.

7 d) Of the image files in the Electronic Media, 7,127 images matched hash values for
8 images of child pornography involving known child victims.

9 e) Among the videos, Agent Unger reviewed a video of "Tara," a known series of
10 child pornography depicting an identified victim. This child victim was abused outside of the
11 state of California (in Georgia) and her abuse took place between the ages of five (5) and nine
12 (9). The video reviewed by Agent Unger depicts a nude prepubescent female wearing a Mardi
13 Gras mask, and performing oral copulation on an adult male's erect penis. The adult male is
14 pushing and forcing the prepubescent female's head harder on his erect penis. At one point the
15 child stops orally copulating the male, she wipes her mouth, and coughs. The child is then
16 shown lying on a bed.

17 8. **San Francisco Police Department Sergeant Nantroup #2351**: If called to testify at
18 trial, Sergeant Nantroup would testify as follows.

19 a) Sergeant Nantroup and San Jose Police Department Detective Sean Pierce
20 interviewed the Defendant in the rear of an unmarked police vehicle at approximately 4:00 p.m.
21 on April 9, 2015, while the search warrant was being executed. The interview was audiotaped.
22 Detective Pierce read the Defendant his *Miranda* rights, which the Defendant stated that he
23 understood and waived. The Defendant stated that he lives at 343 Victoria Street, and identified
24 his bedroom as the room in the rear of the house where the Electronic Media was found. He
25 stated that the desktop computer tower in his room is his, and that there was child pornography
26 on his external hard drive attached to his desktop tower. He stated that, by the term "child
27 pornography," he meant depictions of children under the age of thirteen years old. He claimed
28 that the youngest age of a child in the child pornography on his external hard drive would be ten

1 years old. He estimated that there would be approximately 30 child pornography videos on his
 2 external hard drive. He admitted to knowing the term "PTHC" and that it stands for "Pre-teen
 3 hard core." The Defendant stated that the last time he downloaded child pornography onto his
 4 computer was a month ago. The Defendant also stated that he had stayed at his brother's house
 5 in December to house-sit, had brought his computer tower, and had downloaded child
 6 pornography while he was there.

7 b) Sergeant Nantroup and San Francisco Police Department Sergeant Lewis
 8 conducted a further interview of the Defendant in the Special Victims Unit interview room at
 9 SFPD later that day at approximately 6:38 p.m. The interview was videotaped. In that
 10 interview, the Defendant stated that he had been previously convicted of child pornography
 11 charges in 2004 and started downloading child pornography again about a year ago.

12 9. The parties stipulate that all of the drives described above were manufactured outside of
 13 California, were found in California, and therefore traveled in interstate commerce.

14 10. The parties further stipulate that the images and videos described in the testimony above
 15 were of minors who are real human beings. The video described in paragraph 7(e) will be made
 16 available for the Court's review at the bench trial.

17 11. Neither party is aware of any witness who will testify in a manner contrary to the
 18 testimony described above.

19 12. The Defendant waives his right to testify and to call any witness on his own behalf, and
 20 he submits this matter for decision by the Court on the basis of the above stipulations.


21 **SO STIPULATED.**

22 BRIAN J. STRETCH
 23 United States Attorney

24 Dated: December 6, 2016

25 
 26 RITA F. LIN
 Assistant United States Attorney

27 Dated: December 6, 2016

28 
 EDWARD SHIA
 Defendant

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Dated: December 6, 2016


WM. MICHAEL WHELAN
Attorney for Defendant